

By: Lindsay

S.B. No. 1460

Substitute the following for S.B. No. 1460:

By: Lewis

C.S.S.B. No. 1460

A BILL TO BE ENTITLED

AN ACT

1
2 relating to county fire marshals and county fire protection;
3 providing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sections 352.013, 352.014, and 352.016, Local
6 Government Code, are amended to read as follows:

7 Sec. 352.013. INVESTIGATION OF FIRES. (a) The county fire
8 marshal shall:

9 (1) investigate the cause, origin, and circumstances
10 of fires [~~each fire~~] that occur [~~occurs~~] within the county but
11 outside the municipalities in the county and that destroy
12 [~~destroys~~] or damage [~~damages~~] property or cause injury; and

13 (2) determine whether a [~~the~~] fire was the result of
14 negligent or intentional conduct.

15 (b) The commissioners court of a county, with the advice of
16 the county fire marshal, shall adopt rules and procedures for
17 determining which fires warrant investigation by the county fire
18 marshal. The county fire marshal shall begin an [~~this~~]
19 investigation within 24 hours after the receipt of information
20 regarding a fire that warrants investigation under commissioners
21 court rules and procedures. The 24-hour period does not include a
22 Sunday.

23 (c) In the performance of official duties, the county fire
24 marshal, at any time of day, may enter and examine a structure where

1 a fire has occurred and may examine adjacent premises. [~~The marshal~~
2 ~~shall conduct this examination in a manner designed to impose the~~
3 ~~least inconvenience to any persons living in the building.~~]

4 Sec. 352.014. RECORD OF INVESTIGATION. The county fire
5 marshal shall keep a record of each fire that the marshal is
6 required to investigate. The record must include the facts,
7 statistics, and circumstances determined by the investigation,
8 including the origin of the fire and the estimated amount of the
9 loss. Each fire department and state or local agency that provides
10 emergency medical services must submit reports requested by the
11 county fire marshal in a timely manner.

12 Sec. 352.016. INSPECTION OR REVIEW OF PLAN FOR FIRE OR LIFE
13 SAFETY HAZARDS. (a) In this section, "fire or life safety hazard"
14 means any condition [~~of the following conditions~~] that endangers
15 [~~endanger~~] the safety of a structure or its occupants and promotes
16 [~~promote~~] or causes [~~cause~~] fire or combustion, including:

17 (1) the presence of a flammable substance;

18 (2) a dangerous or dilapidated wall, ceiling, or other
19 structural element;

20 (3) improper electrical components [~~lighting~~],
21 heating, or other building services or facilities;

22 (4) the presence of a dangerous chimney, flue, pipe,
23 main, or stove, or of dangerous wiring; [~~or~~]

24 (5) dangerous storage, including storage or use of
25 hazardous substances; or

26 (6) inappropriate means of egress, fire protection, or
27 other fire-related safeguard.

1 (b) In the interest of safety and fire prevention, the
2 county fire marshal may inspect for fire or life safety hazards any
3 structure, appurtenance, fixture, or real property located within
4 500 [~~200~~] feet of a structure, appurtenance, or fixture. The
5 marshal shall inspect a structure for fire or life safety hazards if
6 called on to do so. In the absence of a county fire code, the county
7 fire marshal may conduct an inspection using any nationally
8 recognized code or standard adopted by the state. If the marshal
9 determines the presence of a fire or life safety hazard, the marshal
10 may order the owner or occupant of the premises to correct the
11 hazardous situation. If ordered to do so, an owner or occupant
12 shall correct the hazardous situation in accordance with the order.

13 (b-1) In the interest of safety and fire prevention, the
14 county fire marshal shall, if required, and may, if requested,
15 review the plans of a business, single-family residence,
16 multi-family dwelling, or commercial property for fire or life
17 safety hazards.

18 (c) The commissioners court by order may authorize the
19 county fire marshal to charge a fee to the owner of a business, a
20 multi-family dwelling, or commercial property for a plan review or
21 [fire] inspection conducted under this section in a reasonable
22 amount determined by the commissioners court to cover the cost of
23 the plan review or inspection.

24 (d) The commissioners court by order may authorize the
25 county fire marshal to charge a fee to the owner of a single-family
26 residence for a plan review or [fire] inspection conducted under
27 this section in a reasonable amount determined by the commissioners

1 court to cover the cost of the plan review or inspection, if the
2 plan review or inspection is requested by the owner of the property.

3 SECTION 2. Subsection (b), Section 352.017, Local
4 Government Code, is amended to read as follows:

5 (b) Service of process required by this subchapter shall be
6 made by a peace officer [~~constable or sheriff~~] and shall be signed
7 by the county fire marshal or the fire marshal's deputy.

8 SECTION 3. Section 352.019, Local Government Code, is
9 amended by amending Subsections (b) and (c) and adding Subsections
10 (b-1), (e), (f), and (g) to read as follows:

11 (b) The county fire marshal shall coordinate the work of the
12 various fire-fighting and fire prevention units in the county. On
13 request, the county fire marshal may assist a rural fire prevention
14 district or emergency services district located wholly or partially
15 in the county to accomplish its powers and duties.

16 (b-1) If the commissioners court establishes procedures for
17 firefighter certification under Subsection (b), the commissioners
18 court must ensure that the procedures are at least as stringent as
19 the minimum qualifications set by the Texas Commission on Fire
20 Protection under Section 419.032, Government Code. This subsection
21 does not apply to a volunteer firefighter as defined by Section
22 419.001, Government Code.

23 (c) The county fire marshal or the county fire marshal's
24 designee may perform as the incident commander in a major event if
25 the incident commander of the responsible fire department consents.
26 The county fire marshal may not enforce orders and decrees within a
27 municipality in the county unless specifically required to do so by

1 interlocal agreement and may act in a cooperative and advisory
2 capacity there only on request.

3 (e) A county commissioners court may authorize the fire
4 marshal to provide training programs and operate a training
5 facility for the various fire-fighting and fire prevention units in
6 the county. The county may establish and collect a reasonable fee
7 for the training programs, use of the facility, and services
8 provided by the facility.

9 (f) The commissioners court and county fire marshal may
10 jointly adopt voluntary guidelines, including voluntary funding
11 guidelines, for fire departments located in unincorporated areas of
12 the county, including fire departments located within rural fire
13 prevention districts or emergency services districts, regarding
14 participation in the Texas Fire Incident Reporting System (TXFIRS)
15 or the National Fire Incident Reporting System (NFIRS), or both.
16 The commissioners court may establish model procedures for
17 voluntary use by the various fire departments in the county with
18 respect to:

- 19 (1) emergency incident management;
20 (2) firefighter certification; and
21 (3) automatic mutual aid.

22 (g) If a commissioners court authorizes a fire marshal to
23 provide training programs and operate a training facility under
24 Subsection (e), the fire marshal must ensure that the training
25 programs and operation of the training facility are at least as
26 stringent as the minimum qualifications set by the Texas Commission
27 on Fire Protection under Section 419.032, Government Code. This

1 subsection does not apply to a volunteer firefighter as defined by
2 Section 419.001, Government Code.

3 SECTION 4. Subsection (b), Section 352.021, Local
4 Government Code, is amended to read as follows:

5 (b) An offense under this section is a misdemeanor
6 punishable by a fine of not more than \$2,000 [~~\$25~~].

7 SECTION 5. Section 352.022, Local Government Code, is
8 amended to read as follows:

9 Sec. 352.022. PENALTY FOR FAILURE TO COMPLY WITH ORDER. An
10 owner or occupant who is subject to an order issued under Section
11 352.016 commits an offense if that person [~~he~~] fails to comply with
12 the order. Each refusal to comply is a separate offense. The
13 offense is a Class B misdemeanor unless it is shown on the trial of
14 the offense that the defendant has been previously convicted two or
15 more times under this section, in which event the offense is a state
16 jail felony. [~~Each refusal to comply is a separate offense.~~]

17 SECTION 6. Article 12.01, Code of Criminal Procedure, as
18 amended by Chapters 12, 1479, and 1482, Acts of the 77th
19 Legislature, Regular Session, 2001, is reenacted and amended to
20 read as follows:

21 Art. 12.01. FELONIES. Except as provided in Article 12.03,
22 felony indictments may be presented within these limits, and not
23 afterward:

24 (1) no limitation:

25 (A) murder and manslaughter; [~~or~~]

26 (B) sexual assault, if during the investigation
27 of the offense biological matter is collected and subjected to

1 forensic DNA testing and the testing results show that the matter
2 does not match the victim or any other person whose identity is
3 readily ascertained; or

4 (C) [~~and~~] an offense involving leaving the
5 scene of an accident under Section 550.021, Transportation Code, if
6 the accident resulted in the death of a person;

7 (2) ten years from the date of the commission of the
8 offense:

9 (A) theft of any estate, real, personal or mixed,
10 by an executor, administrator, guardian or trustee, with intent to
11 defraud any creditor, heir, legatee, ward, distributee,
12 beneficiary or settlor of a trust interested in such estate;

13 (B) theft by a public servant of government
14 property over which he exercises control in his official capacity;

15 (C) forgery or the uttering, using or passing of
16 forged instruments;

17 (D) injury to a child, elderly individual, or
18 disabled individual punishable as a felony of the first degree
19 under Section 22.04, Penal Code; [~~or~~]

20 (E) sexual assault, except as provided by
21 Subdivision (1) or (5); or

22 (F) arson;

23 (3) seven years from the date of the commission of the
24 offense:

25 (A) misapplication of fiduciary property or
26 property of a financial institution;

27 (B) securing execution of document by deception;

1 or

2 (C) a violation under Sections 153.403(22)-(39),
3 Tax Code;

4 (4) five years from the date of the commission of the
5 offense:

6 (A) theft, burglary, robbery; [~~or~~]

7 (B) [~~arson~~]

8 [~~(C)~~] kidnapping;

9 (C) [~~(D)~~] injury to a child, elderly individual,
10 or disabled individual that is not punishable as a felony of the
11 first degree under Section 22.04, Penal Code; or

12 (D) [~~(E)~~] abandoning or endangering a child;

13 (5) ten years from the 18th birthday of the victim of
14 the offense:

15 (A) indecency with a child under Section
16 21.11(a)(1) or (2), Penal Code; or

17 (B) except as provided by Subdivision (1), sexual
18 assault under Section 22.011(a)(2), Penal Code, or aggravated
19 sexual assault under Section 22.021(a)(1)(B), Penal Code; or

20 (6) three years from the date of the commission of the
21 offense: all other felonies.

22 SECTION 7. (a) The change in law made by this Act applies
23 only to an offense committed on or after the effective date of this
24 Act. For purposes of this section, an offense is committed before
25 the effective date of this Act if any element of the offense occurs
26 before that date.

27 (b) An offense committed before the effective date of this

1 Act is covered by the law in effect when the offense was committed,
2 and the former law is continued in effect for that purpose.

3 (c) The change in law made by this Act to Article 12.01, Code
4 of Criminal Procedure, does not apply to an offense if the
5 prosecution of that offense became barred by limitation before the
6 effective date of this Act. The prosecution of that offense remains
7 barred as if this Act had not taken effect.

8 SECTION 8. This Act takes effect September 1, 2003.